

**COMMISSIONERS**  
MARC SPITZER - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION



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DATE: DECEMBER 30, 2003

ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

DOCKET NO: T-03842A-03-0709

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amanda Pope. The recommendation has been filed in the form of an Order on:

ADVANCED TELCOM, INC. dba ADVANCED TELCOM GROUP  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JANUARY 8, 2004

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JANUARY 13, 2004 and JANUARY 14, 2004

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

DOCKETED

DEC 30 2003

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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This document is available in alternative formats by contacting Yvonne McFarlin, ADA Coordinator, voice phone number 602-542-3931, E-mail [YMcFarlin@cc.state.az.us](mailto:YMcFarlin@cc.state.az.us)

1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 COMMISSIONERS

4 MARC SPITZER  
5 WILLIAM A. MUNDELL  
6 JEFF HATCH-MILLER  
7 MIKE GLEASON  
8 KRISTIN K. MAYES

9 IN THE MATTER OF THE APPLICATION OF  
10 ADVANCED TELCOM, INC. DBA ADVANCED  
11 TELCOM GROUP FOR A CERTIFICATE OF  
12 CONVENIENCE AND NECESSITY TO PROVIDE  
13 COMPETITIVE RESOLD INTEREXCHANGE  
14 TELECOMMUNICATIONS SERVICES, EXCEPT  
15 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-03842A-03-0709

DECISION NO. \_\_\_\_\_

ORDER

16 Open Meeting  
17 January 13 and 14, 2004  
18 Phoenix, Arizona

19 **BY THE COMMISSION:**

20 Having considered the entire record herein and being fully advised in the premises, the  
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 FINDINGS OF FACT

23 1. On September 26, 2003, Advanced TelCom, Inc. dba Advanced TelCom Group  
24 ("Applicant" or "Advanced") filed with the Commission an application for a Certificate of  
25 Convenience and Necessity ("Certificate") to provide competitive resold interexchange  
26 telecommunications services, except local exchange services, within the State of Arizona.

27 2. Applicant is a switchless reseller that purchases telecommunications services from a  
28 variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold  
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction  
of the Commission.

4. Advanced has authority to transact business in the State of Arizona.

5. On December 5, 2003, Advanced filed an Affidavit of Publication indicating  
compliance with the Commission's notice requirements.

1           6.       On December 12, 2003, the Commission's Utilities Division Staff ("Staff") filed a  
2 Staff Report in this matter, which includes Staff's fair value rate base determination in this matter and  
3 recommends approval of the application subject to certain conditions.

4           7.       In the Staff Report, Staff stated that Advanced provided financial statements for the  
5 six month period ending May 15, 2003, which list assets of \$14 million, total equity of \$6 million,  
6 and a net income of \$195 million.

7           8.       In its Staff Report, Staff stated that based on information obtained from the Applicant,  
8 it has determined that Advanced's fair value rate base ("FVRB") is zero. Staff has determined that  
9 Applicant's FVRB is too small to be useful in a fair value analysis and is not useful in setting rates.  
10 Staff further stated that in general, rates for competitive services are not set according to rate of return  
11 regulation but are heavily influenced by the market. Staff recommended that the Commission not set  
12 rates for Advanced based on the fair value of its rate base.

13          9.       Staff believes that Advanced has no market power and that the reasonableness of its  
14 rates will be evaluated in a market with numerous competitors. In light of the competitive market in  
15 which the Applicant will be providing its services, Staff believes that the rates in Applicant's  
16 proposed tariffs for its competitive services will be just and reasonable and recommends that the  
17 Commission approve them.

18          10.      Staff recommended approval of Advanced's application subject to the following:

19           (a)      The Applicant should be ordered to comply with all Commission rules, orders,  
20 and other requirements relevant to the provision of intrastate telecommunications  
21 service;

22           (b)      The Applicant should be ordered to maintain its accounts and records as  
23 required by the Commission;

24           (c)      The Applicant should be ordered to file with the Commission all financial and  
25 other reports that the Commission may require, and in a form and at such times as the  
26 Commission may designate;

27           (d)      The Applicant should be ordered to maintain on file with the Commission all  
28 current tariffs and rates, and any service standards that the Commission may require;

          (e)      The Applicant should be ordered to comply with the Commission's rules and  
modify its tariffs to conform to these rules if it is determined that there is a conflict

between the Applicant's tariffs and the Commission's rules;

(f) The Applicant should be ordered to cooperate with Commission investigations, including but not limited to, customer complaints;

(g) The Applicant should be ordered to participate in and contribute to a universal service fund, as required by the Commission;

(h) The Applicant should be ordered to notify the Commission immediately upon changes to the Applicant's address or telephone number;

(i) The Applicant's interexchange service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;

(j) The Applicant's maximum rates should be the maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's total service long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109; and

(k) In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate.

11. Staff further recommended that Advanced's Certificate should be conditioned upon the Applicant filing conforming tariffs in accordance with this Decision within 365 days of the effective date of this Decision, or 30 days prior to providing service, whichever comes first.

12. Based on Advanced's indication that it collects from its customers an advance, deposit, and/or prepayment, Staff also recommended the following:

(a) that Advanced's Certificate should be conditioned upon the Applicant procuring a performance bond as described below, and filing proof of that performance bond within 365 days from the date of an Order in this matter, or 30 days prior to providing service, whichever comes first;

(b) that Advanced be required to procure a performance bond in the initial amount of \$10,000, with the minimum bond amount of \$10,000 to be increased if at any time it would be insufficient to cover all advances, deposits, or prepayments collected from its customers, in the following manner: The bond amount should be increased in increments of \$5,000, with such increases to occur whenever the total amount of the advances, deposits, and prepayments reaches a level within \$1,000 under the actual bond amount; and

(c) that, if at some time in the future, Advanced does not collect from its customers any advances, prepayments or deposits, that Advanced should be allowed to file with the Commission a request for cancellation of its established performance bond. Staff stated that after Staff review of such filing, Staff would forward its

1 recommendation on the matter to the Commission for a Decision.

2 13. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
3 Findings of Fact Nos. 11 and 12, that Advanced's Certificate should become null and void without  
4 further Order of the Commission and that no time extensions for compliance should be granted.

5 14. The rates proposed by this filing are for competitive services.

6 15. Staff's recommendations as set forth herein are reasonable.

7 16. Advanced's fair value rate base is zero.

### 8 CONCLUSIONS OF LAW

9 1. Applicant is a public service corporation within the meaning of Article XV of the  
10 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

11 2. The Commission has jurisdiction over Applicant and the subject matter of the  
12 application.

13 3. Notice of the application was given in accordance with the law.

14 4. Applicant's provision of resold interexchange telecommunications services is in the  
15 public interest.

16 5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for  
17 providing competitive resold interexchange telecommunications services in Arizona.

18 6. Staff's recommendations in Findings of Fact Nos. 8, 9, 10, 11, 12, and 13 should be  
19 adopted.

20 7. Advanced's fair value rate base is not useful in determining just and reasonable rates  
21 for the competitive services it proposes to provide to Arizona customers.

22 8. Advanced's rates, as they appear in its proposed tariffs, are just and reasonable and  
23 should be approved.

### 24 ORDER

25 IT IS THEREFORE ORDERED that the application of Advanced TelCom, Inc. dba  
26 Advanced TelCom Group for a Certificate of Convenience and Necessity for authority to provide  
27 competitive resold interexchange telecommunications services, except local exchange services, is  
28 hereby granted, conditioned upon its compliance with the conditions recommended by Staff as set

1 forth in Findings of Fact Nos. 10, 11 and 12 above.

2 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.  
3 8, 9, 10, 11, 12, and 13 above are hereby adopted.

4 IT IS FURTHER ORDERED that Advanced TelCom, Inc. dba Advanced TelCom Group  
5 shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 10, 11,  
6 and 12 above.

7 IT IS FURTHER ORDERED that if Advanced TelCom, Inc. dba Advanced TelCom Group  
8 fails to meet the timeframes outlined in Findings of Fact Nos. 11 and 12 above, that the Certificate  
9 conditionally granted herein shall become null and void without further Order of the Commission.

10 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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13  
14 CHAIRMAN

COMMISSIONER

COMMISSIONER

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16  
17 COMMISSIONER

COMMISSIONER

18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
19 Secretary of the Arizona Corporation Commission, have  
20 hereunto set my hand and caused the official seal of the  
21 Commission to be affixed at the Capitol, in the City of Phoenix,  
22 this \_\_\_\_ day of \_\_\_\_\_, 2004.

23 BRIAN C. McNEIL  
EXECUTIVE SECRETARY

24 DISSENT \_\_\_\_\_

25  
26 DISSENT \_\_\_\_\_  
AP:mj

1 SERVICE LIST FOR: ADVANCED TELCOM, INC.

2 DOCKET NO.: T-03842A-03-0709

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